

DISTRICT OF COLUMBIA

FORMAL STATE COMPLAINT

POLICY & PROCEDURES

Revised September 2009

**District of Columbia Office of the State Superintendent of Education
State Complaint Office**

INTRODUCTION

The Individuals with Disabilities Education Act (IDEA), 34 CFR §300.151 through §300.153 require the State Education Agency, the Office of the State Superintendent of Education (OSSE)¹, to adopt written procedures for the investigation and resolution of any complaint alleging that a public agency has violated a requirement of the IDEA.

The State Complaint Office (SCO) of the OSSE will investigate and resolve complaints that allege a violation of Part B of IDEA or the District of Columbia's laws and policies regarding special education. The IDEA, 34 CFR § 303.510 through § 303.512 also require the lead agency for Part C of the IDEA to adopt written procedures for resolving any complaint that alleges a violation of Part C of the IDEA by a public agency or private service provider. The OSSE is the lead agency for Part C in the District of Columbia. This policy and procedures is intended to govern complaints alleging violations of both Part B and Part C of the IDEA, unless indicated otherwise.

As required by IDEA regulations, 34 CFR § 300.151(a)(2) and 34 CFR § 303.510(a)(2), this document will be distributed to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities. The procedures will also be available on the OSSE website (<http://www.osse.dc.gov>). In addition, the SCO will mail or e-mail a copy of these procedures to individuals and organizations upon request.

Complaints filed with the SCO should be directed to:

BY MAIL:

Office of the State Superintendent of Education - State Complaint Office
51 N Street, 7th Floor, NE.
Washington, DC 20002
Telephone: (202) 727-2824

BY FAX:

Fax: (202) 741-0227

BY E-MAIL ATTACHMENT

(See Section I of this policy for the procedures for e-mailed complaints):

TBD@dc.gov

NOTICE: All complaints must be signed and dated. Any questions regarding the State Complaint Policy and Procedures or requests for copies of this document should also be directed to the SCO by mail or fax as indicated above.

¹ In compliance with federal law, including but not limited to the provisions of Title IX of the Education Amendment of 1972 (20 U.S.C. § 1681 et seq.), Titles VI and VII of the Civil Rights Acts of 1964 (42 U.S.C. § 2000d et seq., 2000e et seq.), the Age Discrimination Act of 1967 (29 U.S.C. § 621 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101), the OSSE administers all state-operated programs, employment activities and admissions without discrimination because of race, religion, national or ethnic origin, color age, military service, disability or gender, except where exemption is appropriate and allowed by law.

District of Columbia Office of the State Superintendent of Education
State Complaint Office
Procedures for Complaints Regarding Special Education

Any individual or organization (“complainant”) may submit to the State Complaint Office (SCO) a written complaint that claims that any District of Columbia public agency, as defined in the glossary of this policy and procedure, has failed to comply with a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or the District’s laws and regulations regarding special education, including the identification, evaluation, educational placement of the child or the provision of a Free and Appropriate Public Education (FAPE) to such child. With respect to Part C of the IDEA, an individual or organization may file a written complaint that a public agency, as well as a private service provider, has not met the requirements of the IDEA or District of Columbia law regarding Part C.

A complaint alleging that a public agency in Part B matters, or a public agency or private service provider in Part C matters, has failed to implement a special education due process hearing officer decision resolving a due process hearing request will be reviewed and resolved by the SCO. Additionally, complaints alleging a failure to implement a settlement agreement resolving a due process hearing request may be reviewed and resolved through the State Complaint process but nothing herein shall delay or deny a party the right to seek enforcement of a settlement agreement in a court of competent jurisdiction.

I. FILING A STATE COMPLAINT

Any individual or organization (including but not limited to individuals or organizations outside of the District of Columbia) may file a signed, written complaint with the SCO.² A model complaint form is attached to these procedures; however, this form does not have to be used to submit a complaint. The SCO will accept complaints submitted by mail or fax. A faxed complaint received for filing by 5:00 p.m. (Eastern Time) will be accepted for filing on that day. A faxed complaint received after 5:00 p.m. (Eastern Time) will be accepted for filing on the next business day. The SCO will also accept complaints submitted by e-mail. However, a complaint submitted by e-mail must be signed, scanned, and attached to an e-mail to enable receipt of a signed complaint. **(Electronic or digital signatures are NOT accepted at this time.)** A complaint submitted by e-mail will be deemed filed/received when it arrives at the SCO, except that e-mailed complaints that arrive at the SCO after 5:00 p.m. will be deemed filed/received on the next business day.

BY MAIL:

Office of the State Superintendent of Education - State Complaint Office
51 N Street, 7th Floor, NE.
Washington, DC 20002

Telephone: (202) 727-2824

BY FAX:

Fax: (202) 741-0227

BY E-MAIL ATTACHMENT:

TBD@dc.gov

² Complaint(s) submitted by an organization must be signed by an individual authorized to represent the organization.

An individual who is unable to file a written complaint by mail, fax, or e-mail may contact the SCO for further assistance. The SCO has a maximum of 60 days after a complaint is filed to investigate the allegation(s) and issue a final written decision.

1. Under Part B of IDEA, the complainant filing a complaint must forward a copy of the complaint to the public agency serving the child at the same time the complainant files the complaint with the SCO. The SCO will not investigate complaints alleging violations that occurred more than one (1) year prior to the date that the complaint is received by the SCO.
 - a. For complaints involving a District of Columbia Public School (DCPS), a copy of the complaint should be submitted to the DCPS Central Office.
 - b. For complaints involving charter schools, contact the respective charter school or SCO to determine where to submit a copy of the complaint.
 - c. For complaints involving any other education agencies, contact the respective agency for further information.
2. Under Part C of IDEA, the complainant filing a complaint must forward a copy of the complaint to the public agency or private service provider serving the child. The one year limitations period for complaints regarding Part B is not applicable to Part C. For complaints alleging a violation of Part C, the SCO will investigate complaints alleging violations that occurred more than one (1) year prior to the date the complaint is received by the SCO if a longer period is reasonable because the alleged violation continues for that child or other children, or the complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by the public agency.

A complaint regarding Part B must include:

- a. A statement that a public agency has violated a requirement of Part B of the IDEA and/or a requirement of District of Columbia law regarding special education;
- b. The facts on which the statement is based;
- c. The signature and contact information for the complainant; and
- d. If alleging violations with respect to a specific child,³ the complaint must include:
 - i. the name and address of the residence of the child;
 - ii. the name of the school the child is attending;
 - iii. in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;
 - iv. a description of the nature of the problem affecting the child, including facts relating to the problem; and

³ If a complaint regarding a specific child is filed by someone other than the child's parent or an eligible adult student to whom rights under Part B of the IDEA have transferred pursuant to the IDEA and District of Columbia law, the SCO will notify and provide copies of the complaint and any relevant correspondence to the parent of the child or eligible adult student.

- v. a proposed resolution to the problem to the extent known and available to the party at the time the complaint is filed.

A complaint regarding Part C must include:

- a. A statement that a public agency, or private service provider has violated a requirement of Part C of the IDEA and/or a requirement of District of Columbia law regarding early intervention services;
- b. The facts on which the statement is based; and
- c. The signature and contact information for the complainant.

It is encouraged, but not required, that the complainant attach copies of any relevant documentation that supports the allegation(s) made in the complaint.

II. COMPLAINT PROCEDURES/RESOLUTIONS

Initiation of a Complaint Investigation

1. Upon the filing of a complaint, the SCO will assign an investigator to take responsibility for the complaint.
2. If the SCO determines that the complaint does not meet the requirements in Section I, the SCO will not investigate the complaint but will notify the complainant of the basis for the SCO's determination. The complainant may re-file, if desired. Re-submitted complaints will be treated as a new complaint.
3. If a complaint is received that is the subject of a due process complaint or contains multiple issues of which one or more are currently the subject of a due process complaint, the SCO will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. The SCO will notify the complainant and the relevant public agency or private service provider of any issues that will be set aside until the conclusion of the hearing. The SCO will investigate those issues that are not the subject of a due process complaint using the timeline and procedures in this policy.
4. If an issue raised in the complaint has previously been decided through a due process hearing involving the same parties:
 - i. The due process hearing decision is binding on that issue; and
 - ii. The SEA will inform the complainant to that effect.
5. If the SCO determines that an investigation will **NOT** be conducted:
 - a. The SCO will send a notification to the complainant; and
 - b. A copy of the notice will be forwarded to the relevant public agency or private service provider.
6. If the investigator determines that an investigation is warranted, the SCO will take the following action:
 - a. The SCO will send a written notification of receipt of the complaint to the complainant, along with copies of the Procedural Safeguards Notices for Part B and/or Part C. The written notification will include the date that the complaint was filed with the SCO, the individual or

organization that filed the complaint, and the issue(s) raised in the complaint that will be investigated. See Section V regarding the process and procedures for the investigation.

- b. The SCO will send a notice as described below, along with a copy of the complaint, to the public agency or private service provider involved, with a request for a written response to the alleged violation(s) and supporting documentation. The notice will:
 - i. include the date that the complaint was filed with the SCO, the individual or organization that filed the complaint, and the issue(s) being addressed;
 - ii. provide an opportunity for the public agency or private service provider to include in its response to the complaint, at the discretion of the public agency or private service provider, a proposal to resolve the complaint;
 - iii. provide an opportunity for the public agency or private service provider to include in its response to the complaint a statement that the public agency or private service provider will voluntarily engage in mediation consistent with 34 C.F.R. § 300.506 with the complainant;
 - iv. request the public agency or private service provider to review the issue(s) and determine action(s) to resolve the issue; and
 - v. request the public agency or private service provider to provide the child's relevant records or other documentation within a specified time frame.
- c. The SCO will send a copy of the notice provided in Section II.4.b. to the complainant.
- d. The complainant and the public agency may submit additional information about the allegation(s) in the complaint, either orally or in writing. If the complainant raises new issues unrelated to the complaint, the investigator will immediately notify the SCO. The new issue(s) is treated as a new complaint and must follow the same procedures as a new complaint.

Public Agency: Response to Complaint Requirements

The public agency or private service provider must provide a written response to the SCO within ten (10) business days upon receipt of the complaint from the SCO. The public agency or private service provider must simultaneously send a copy of the written response (not supporting documentation) to the complainant consistent with the confidentiality requirements in federal and District of Columbia law and regulation. If the complaint was filed by an organization or individual who is not the parent of a child or an eligible adult student, the public agency or private service provider must also simultaneously send the response to the parent or eligible adult student.

Failure to respond within the allotted ten (10) business days may result in a finding of noncompliance or sanctions against the public agency or private service provider in question.

An extension of the ten (10) day timeline for a response may be granted if necessary to allow the complainant and public agency or private service provider to resolve the complaint themselves. A request for such an extension must be submitted in writing to the SCO by the public agency or private service provider. Both the complainant and the public agency or private service provider will be notified by the SCO of any extension granted.

III. MEDIATION SERVICES

As an alternative to filing a state complaint or after a complaint is filed, mediation services, in accordance with the IDEA 34 CFR §300.506 and 34 CFR § 303.419 are available, at no cost to the

complainant, through the OSSE's Student Hearing Office. Mediation is a voluntary process and both the complainant and public agency or private service provider must be willing to participate. If a complaint is filed, mediation will not delay the issuance of the final decision unless, in complaints alleging a violation of Part B, the complainant and the agency agree to extend the timeline to engage in mediation.

IV. EARLY RESOLUTION

If the complainant and public agency or private service provider are able to resolve the complaint within 60 days after the complaint is filed, and so inform the SCO, the SCO will close the case without issuing a decision.

V. INVESTIGATION

Within 60 days following the SCO's receipt of a properly filed complaint that meets the requirements of Section I, the SCO will:

1. Conduct an independent investigation of the complaint which may include an on-site investigation, if necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the public agency or private service provider with the opportunity to respond to the complaint, including, at a minimum:
 - a. at the discretion of the public agency or private service provider, submission of a proposal to resolve the complaint; and
 - b. an opportunity for the complainant and the public agency or private service provider to voluntarily engage in mediation.
4. Review all relevant information and make an independent determination as to whether the public agency or private service provider violated a requirement of Part B or Part C of IDEA or corresponding District of Columbia law;

VI. FINAL DECISION

Upon completion of the investigation and within 60 days of the filing of the complaint, the SCO will determine whether the public agency or private service provider complied with the applicable provisions of Part B or Part C of the IDEA and regulations in a final written decision. The SCO will:

1. Issue and send the final written decision to the complainant and agency involved that addresses each issue raised in the complaint, except those excluded from consideration because they are the subject of a pending due process hearing. The final decision will include the following information:
 - a. summary of complaint issues, parties involved, and the investigatory process;
 - b. findings of facts, based on the information received during the investigation;
 - c. conclusions based on federal and District of Columbia law regarding whether the public agency is in compliance with the law;
 - d. corrective action(s) ordered by the SCO if the public agency or private service provider is found in non-compliance;
 - e. time lines by which the public agency or private service provider is required to respond to the letter and initiate the corrective action(s); and

2. Indicate the date the file was closed and that a decision was made with respect to compliance.
3. If in resolving a complaint, the SCO determines that the public agency or private service provider has failed to provide appropriate services, the OSSE, pursuant to its general supervisory authority under the IDEA will address:
 - a. the failure to provide appropriate services, including corrective action to address the needs of the child (such as compensatory services or monetary reimbursement), and
 - b. appropriate future provision of services for all children with disabilities.
4. To facilitate effective implementation of the SCO's final decision, the SCO may provide assistance to the complainant and public agency or private service provider with any negotiations between those parties that may be useful for implementation of the final decision.

The SCO may extend the 60-day deadline:

1. If exceptional circumstances exist; or
2. In complaints alleging a violation of Part B, the complainant and public agency involved agree to an extension in order to engage in mediation.

VII. CORRECTIVE ACTION PLANS

1. If in resolving a complaint the SCO finds the public agency or private service provider has failed to provide appropriate services to address the needs of a child with disability, and to facilitate effective implementation of the SCO's final decision, the SCO may require the public agency or private service provider to access training and technical assistance by the OSSE or other public agency.
2. In some cases the SCO may require the public agency to develop a corrective action plan (CAP) and may also require that it be submitted to the SCO for approval.
3. The complainant may also submit comments concerning the plan. The SCO may require revisions to the CAP before approving it. A copy of all communications concerning the plan will be provided to the complainant.

VIII. ENFORCEMENT

1. The SCO is responsible for tracking and ensuring that the final written decision, including any CAP, is enforced.
2. Upon verification of completion of all corrective action outlined in the CAP, the SCO will notify the public agency or private service provider. The SCO may, at its discretion, continue to monitor the public agency or private service provider and request additional action to ensure full compliance with federal and state regulations.

VIII. WITHDRAWAL OF COMPLAINT

At any time prior to the date that the SCO issues the final decision regarding a complaint, the complaint may be withdrawn by the complainant. Upon withdrawal of a complaint, the SCO will not take further action regarding the matter and will close the file.

The withdrawal of a complaint must be made in writing. If the complaint is withdrawn, the investigator will send a written confirmation of the withdrawal to the complainant and a copy of the confirmation to

the other parties. Withdrawal of a complaint does not preclude the complainant from re-filing the complaint at a later date.

X. DISSEMINATION OF THE STATE COMPLAINT RESOLUTION PROCEDURES

This document will be widely disseminated to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities. The procedures will also be available on the OSSE website (<http://www.osse.dc.gov>). In addition, the SCO will mail or e-mail a copy of these procedures to individuals and organizations upon request. If you have any questions or need assistance regarding this State Complaint Policy and Procedures, please contact the OSSE-SCO.

PROPOSED

GLOSSARY

CAP	Corrective Action Plan; plan of action to correct violations committed
Complaint	A signed, written document indicating that a District of Columbia public agency has failed to comply with a requirement of the Individuals with Disabilities Education Act (IDEA) Part B or with a requirement of the District's laws and regulations regarding special education (including the identification, evaluation, educational placement of the student(s) or the provision of a free and appropriate public education (FAPE) to such student(s)) or that a public agency or private service provider failed to comply with a requirement of IDEA Part C or of the District's laws and regulations regarding early intervention services.
Complainant	The student (aged 18-21 years inclusive or an emancipated minor), parent/guardian, advocate or other interested party or organization who has submitted the complaint to the Office of the State Superintendent of Education-State Complaint Office.
Day	Calendar day, unless specified otherwise
DC	District of Columbia
DCPS	District of Columbia Public School
Due Process Hearing	A formal adjudicatory hearing before an impartial Hearing Officer which is guaranteed under the IDEA and relevant state law and in which both parties may be represented by legal counsel and may present evidence and sworn testimony to be considered by the Hearing Officer.
Due Process Complaint	A request for a due process hearing that must be filed with the Student Hearing Office and copies served on all other parties.
FAPE	Free Appropriate Public Education, which is defined as an individualized education program, provided at public expense, that emphasizes special education and related services designed to meet the unique needs of the student.
IDEA	Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., 34 CFR Part B and C.
Mediation	A voluntary process in which a neutral individual (mediator) assists the parties in having a full discussion and reaching an agreement.
LEA	Local Education Agency. In the District of Columbia, LEAs also include public charter schools that have elected to be treated as an LEA for purposes of the IDEA.

Private Service Providers	A private, non-public entity that provides early intervention services under Part C of the IDEA.
Public agency	Any agency responsible for providing a free, appropriate public education (FAPE) to any child who is a resident of the District of Columbia. Public agencies include the SEA, LEA, educational service agencies, nonprofit public charter schools that are not otherwise included as LEAs or educational service agencies and are not a school of an LEA or educational service agency, and any other political subdivisions of the District of Columbia that are responsible for providing education to children with disabilities.
OSSE	Office of the State Superintendent of Education, the District of Columbia's state education agency
SEA	State Education Agency. In the District of Columbia the SEA is the Office the State Superintendent of Education.
SCO	State Complaint Office, where complaints are filed and investigated
Special Education	Specially designed instruction, at no cost to the parent, to meet the unique needs of a child with disability.
Student Hearing Office	The office within the OSSE that coordinates that provision of due process hearings and mediation services.

Model State Complaint Form

If you believe that a public agency has failed to comply with the Individuals with Disabilities Education Improvement Act (IDEA) or with a requirement of District of Columbia law regarding special education under Part B of IDEA or a public agency or private service provider with regard to early intervention services under Part C of the IDEA, you may file a complaint to initiate an investigation of the matter. Should you need assistance completing this form, please contact the State Complaint Office (SCO) for sources to contact to obtain assistance.

INSTRUCTIONS: This form has been developed to assist you in filing a state complaint. You do not need to use this form to request a complaint investigation; however, unless indicated otherwise all of the information in this form must be included in a written request for a complaint investigation. Failure to provide all required information may result in a determination by the SCO that the complaint will not be investigated by the SCO. Requests for complaint investigations **MUST be signed and dated and filed with the SCO and, for IDEA Part B, a copy must be forwarded to the public agency at the same time the complaint is filed with the SCO.**

FOR OFFICE USE	Case No.	Assigned To:	Date Received:	Due Date:
-----------------------	-----------------	---------------------	-----------------------	------------------

Complainant Information

Name of Complainant:	Date:
	Relationship to child, if alleging violations with respect to specific child (Optional):
Address (Street, City, State, Zip):	Phone Number:
	Alternate Phone Number, if available (Optional):
	E-mail, if available:

PART B (children 3 through 21) ONLY:

Child Information, if alleging violations with respect to a specific child.

Name of Child:	Date of Birth (MM/DD/YYYY, if known (Optional):
Address of the residence of the child(Street, City, State, Zip):	If the child is homeless, available contact information of the child:
Name of Parent or Guardian (if other than person filing complaint), if known (Optional):	

STATEMENT OF COMPLAINT

Directions: Please describe the alleged violation (Number and list each alleged violation separately. Describe the violation and specific facts that relate to the violation. If possible, include dates, names and locations.) It is suggested, but not required, that you, the complainant, should also attach copies of any relevant documentation that supports the allegation(s) made in the complaint.

PROPOSED

PROPOSED RESOLUTION (For Part B (children 3 through 21) only) (For Part C (infants and toddlers birth through 2, *Optional*))

Directions: If alleging violations with respect to a specific child, please describe your proposed resolution of the problem to the extent known and available to you at the time the complaint is filed.



Mediation⁴

Would you be interested in mediation to try to resolve the complaint? ☐ Yes ☐ No

Would you like more information about mediation? ☐ Yes ☐ No

Signature(s)

By federal regulation, you must sign the request for a complaint investigation.

Signature of the person(s) filing the complaint: _____

Date: _____

Checklist

Before mailing/faxing/e-mailing your request for a complaint investigation, make sure the items below have been completed.

_____ You have completed all sections

_____ You have provided detailed information in regard to the allegation (attached additional pages if needed).

_____ You have provided a proposed resolution of the problem if alleging violations with respect to a specific child and to the extent known and available.

_____ You have signed your complaint.

Please submit complaint to:**BY MAIL:**

Office of the State Superintendent of Education - State Complaint Office
51 N Street, 7th Floor, N.E.
Washington, DC 20002
Telephone: (202) 727-2824

BY FAX: (202) 741-0227

BY E-MAIL ATTACHMENT: TBD@dc.gov

⁴ As an alternative to filing a state complaint or after a complaint is filed, mediation services, are available, at no cost to the complainant, through the OSSE's Student Hearing Office. Mediation is a voluntary process and both the complainant and public agency or private service provider must be willing to participate. Mediation will not delay the issuance of the final decision unless, in complaints alleging a violation of Part B, the complainant and the agency agree to extend the timeline to engage in mediation.